

Briefing Note

Escalation of violence in Burundi as protests continue

Utrecht, the Netherlands, 12th May 2015

Reiterating the concerns expressed in our 28th April 2015 [Press Release](#), Impunity Watch (IW), the Netherlands, is extremely concerned by the violent crackdown on protestors and condemns the brazen violation by the authorities of the legitimate right of Burundians to freedom of assembly and association. After the world marked the international day for press freedom on Sunday 3rd May, IW denounces the continued violation by the Burundian authorities of the right to freedom of expression through the prohibitions imposed on the independent media. The current crisis threatens the fragile stability of the country and has the potential to spill over into neighbouring states. If Burundi is to move towards genuine democratisation and transformation, its deep-rooted culture of impunity must be addressed. It is time for the country's leaders, opposition and civil society to prove their political maturity.

Bujumbura: Burning roadblocks, community watch groups & crackdowns on the media

Since the morning of Sunday 26th April 2015, violence of the nature not witnessed in Burundi since the end of the civil war has rocked the capital, Bujumbura. Large numbers of protestors have taken to the streets following the announcement that incumbent President, Pierre Nkurunziza, had been selected by the ruling CNDD-FDD as the presidential candidate for the upcoming elections.

Over the course of the last two weeks, protests have also spread to a number of the country's provincial areas.

The situation has rapidly evolved. Notable developments since the protests began include the killing of a soldier by an intelligence officer;¹ the Minister of Defence's statement that the army would remain neutral;² the reaction by the army Chief of Staff that the army is loyal to state institutions;³ the intensification of the protests after two days of rest;⁴ the flight of the Vice-President of the Constitutional Court to Rwanda citing intimidation;⁵ and the subsequent decision by the Constitutional Court that the President's candidacy does not violate the terms of the 2005 Constitution.⁶

Meanwhile, the crackdown on freedom of expression is continuing. The largest independent radio station, RPA, remains closed, other independent media have had their activities blocked or restricted, and access to social media has been curbed. IW unequivocally condemns these moves by the authorities.

Across the outer neighbourhoods of Bujumbura, the makeshift roadblocks that were erected and the community watch groups that were formed at the beginning of the protests have been fortified. These measures have been taken to prevent the advances of members of the police, the national intelligence

¹ The Guardian, Soldier shot dead in Burundi as bid by president for third term stokes unrest, 1 May 2015. Available at: <http://www.theguardian.com/world/2015/may/01/soldier-shot-dead-in-burundi-as-bid-by-president-for-third-term-stokes-unrest>.

² Press TV, Burundi defense minister: Military remains neutral amid unrest, 3 May 2015. Available at <http://www.presstv.ir/Detail/2015/05/03/409229/Burundi-unrest-military-Nkurunziza>.

³ It is important to note that the Burundian army has long been considered one of the successes of the Arusha Peace Agreement of 2000 and of Burundi's post-war 'transition'. Key to this purported success has been the creation of an *esprit de corps* between former soldiers from the previously Tutsi-dominated army and former rebels who have been integrated into the army. However, the somewhat contradictory statements by the Minister of Defence and his Chief of Staff raise the spectre of the crystallization of rifts that have long been rumoured within the army. Whereas the Minister of Defence is Tutsi and his Chief of Staff Hutu, these potential rifts have much more to do with political allegiances and support (or not) to the candidacy of Pierre Nkurunziza than they do with ethnic divisions. Any split within the army would nonetheless have devastating consequences for Burundi.

⁴ The New York Times, 3 Protesters Dead in Burundi After Clashes With Police, 4 May 2015. Available at: http://www.nytimes.com/2015/05/05/world/africa/2-protesters-dead-in-burundi-after-clashes-with-police.html?_r=0.

⁵ The Guardian, Senior Burundi judge flees rather than approve president's candidacy, 5 May 2015. Available at: <http://www.theguardian.com/world/2015/may/05/senior-burundi-judge-flees-rather-than-approve-presidents-candidacy>.

⁶ BBC News, Burundi court backs President Nkurunziza on third-term, 5 May 2015. Available at: <http://www.bbc.com/news/world-africa-32588658>.

services and armed members of the *Imbonerakure*, youth wing of the CNDD-FDD. Most access roads in the neighbourhoods worst hit by the violence are now barricaded, many with burning tires. Residents have been confined to their homes, either unable or unwilling to leave. Those who try to go about their lives face being blocked by protestors, being compelled to pay 'taxes', or being caught up in the violent confrontations.

Intimidation & political manipulation of ethnicity

In response to the flight of the Vice-President of the Constitutional Court, the United Kingdom declared that, '[r]eports of intimidation do not give the impression of an independent Constitutional Court that was able to come to an impartial decision.'⁷ Both the United States⁸ and the United Kingdom⁹ had earlier stated that the nomination of Pierre Nkurunziza represents a violation of the term-limits set out in the Arusha Peace and Reconciliation Agreement of 2000. Significantly, the South African President, Jacob Zuma, under whose facilitation the Arusha Agreement was signed, has bluntly stated that "[i]t should be the country that is put first. I don't think the constitutional technicality should actually sacrifice the country to go back to war."¹⁰ On 7th May 2015, the African Union Commission Chair, Nkosazana Dlamini Zuma, declared in an interview that, 'other than the Burundi court, all interpretation we get is that [...] there shouldn't be a third term'.¹¹

The CNDD-FDD and the President are nevertheless holding firm. In what has been interpreted as an hollow attempt at conciliation, the President issued a statement to assure Burundians that he would not seek a fourth term in office and that all prisoners would be released if the demonstrations are stopped.¹² At the same time, a coordinated attempt has been mounted to depict the protestors as a small group guilty of launching an 'insurrection' from certain historically Tutsi neighbourhoods. Persons from within the government or known to be close to the CNDD-FDD have made consistent references to ethnicity when commenting on the protests, at times by explicitly referring to the protestors as being exclusively Tutsi, but also by subtly referring to neighbourhoods or events. The following extract is from a Press Release by the government on 8th May:

This drift towards selective criminality should call the organisers of the insurrection to reflect on the consequences of these acts that *evoke among Burundians what they experienced in 1994, in practically the same areas, with the same actors and curiously with the same methods*, the only difference being that at present they do not hesitate to attack the police when they resist their barbarism.¹³

Though appearing as innocuous statements for outsiders, the significances of these references are immediately understood by the local population. They are references to the aftermath of the assassination of the first Hutu President, Melchior Ndadaye, during which Burundi was plunged into a civil war that began as ethnic violence. During this period, the neighbourhoods in question were fiercely Tutsi, off limits to any Hutu, guarded by violent Tutsi militia groups.

Impunity Watch (IW) deplores the deliberate political manipulation of ethnicity and the inflammatory use of ethnic overtones in trying to cast the demonstrations as the function of a Tutsi minority. The thousands of Burundians – both Hutu and Tutsi – rallying to protest demonstrate that this depiction is little more than a thinly veiled attempt to deflect attention from the deep-rooted resentment that many Burundians hold for the poverty, unemployment, lack of development, injustices and violence that have become a daily reality in recent years.

Whereas protestors initially took to the streets to heed the call of opposition parties and civil society for widespread demonstrations against a third term for the President, the rapidly evolving situation on the ground shows that the 26th April announcement was merely the spark that lit a powder keg of grievances that many Burundians hold, in particular the country's youth.

⁷ United Kingdom Foreign & Commonwealth Office, Press Release, Statement following the decision of the Constitutional Court in Burundi, 6 May 2015. Available at: <https://www.gov.uk/government/news/statement-following-the-decision-of-the-constitutional-court-in-burundi>.

⁸ Press Release, U.S. Embassy Greatly Concerned About the Events Occurred in Bujumbura on April 26, April 27, 2015. Available at: <http://burundi.usembassy.gov/pr-042715.html>.

⁹ UK Statement on Burundi, UK calls for calm and urges President Nkurunziza to reconsider his candidature for upcoming presidential elections, 26 April 2015. Available at: <https://www.gov.uk/government/world-location-news/uk-statement-on-burundi>.

¹⁰ Daily Maverick, Analysis: Burundi crisis illustrates Africa's progress, not its decline, 8 May 2015. Available at: <http://www.dailymaverick.co.za/article/2015-05-08-analysis-burundi-crisis-illustrates-africas-progress-not-its-decline/#.VU4LEtGJhD8>.

¹¹ CCTV News, Burundi: AU says environment not conducive for elections, 7 May 2015. Available at: <http://cctv-africa.com/2015/05/07/burundi-au-says-environment-not-conducive-for-elections/>.

¹² BBC News, Burundi's Pierre Nkurunziza rules out fourth term, 7 May 2015. Available at: <http://www.bbc.com/news/world-africa-32621442>.

¹³ Translated into English by the author. Emphasis added. République du Burundi, Communiqué du Gouvernement, 8 mai 2015. Available at: <http://www.burundi-gov.bi/spip.php?article3942>.

Escalation of violence: A dangerous cocktail of anger, fear and rumour

IW observes that what started as a peaceful, non-violent protest has at the time of writing led to the deaths of approximately twenty people, with many more wounded, as well as hundreds of arrests. Since the start of the demonstrations, the protestors have been met with violent suppression by the police and national intelligence officers, as well as members of the *Imbonerakure* youth wing of the CNDD-FDD.

Live ammunition and grenades are still being used by the police. This looks set to continue with reports circulating that stocks of tear-gas are running low.

We are deeply concerned by the continued presence of armed members of the *Imbonerakure* on the streets of Bujumbura, including claims that they have been issued with police uniforms and arms to join the crackdown on protestors. IW stresses that not all members of the *Imbonerakure* are participating in the perpetration of violence. However credible evidence and eye-witness accounts confirm that a large number of its members are operating as a fully-fledged militia in Bujumbura and the countryside. This practice must end immediately, not least because it is precipitating an escalation of violence.

The clashes between the *Imbonerakure* and protestors are rapidly intensifying. A number of extremely violent confrontations have already taken place and appear to be on the increase. In one incident on 7th May 2015, a suspected member of the *Imbonerakure* was burned alive by protestors. The attack constitutes a dangerous escalation of the situation.¹⁴

Whereas IW deplores all loss of innocent life, the swift degeneration of the situation to the point where acts of violence are now being perpetrated by all sides can be understood against a backdrop of anger, fear and rumour that has swept Bujumbura – and is spreading in the countryside. Many Burundians are angered by the lack of peace, development and basic social well-being, which lie at the core of the resentment against the President that is now finding violent expression. Burundians have long expressed their fear of the authorities, the police, the national intelligence services, and the *Imbonerakure*, and now have bloody confirmation of those fears. Moreover, since the start of the protests, Bujumbura has been awash with rumour, in turn fuelling fear among the population and the protestors.¹⁵ This dangerous cocktail of anger, fear and rumour is adding yet more fuel to the fire that has already been lit in Burundi.

IW notes with concern that the initial organisers of the protests appear unable to control the protestors. In order to avoid a situation that further degenerates into widespread chaos and bloodshed, the political opposition and civil society must prove their political maturity. They must offer a clear pathway and strategy for channelling the frustrations of Burundians, particularly the generation of youth who have swiftly awoken from their political slumber, to develop a political consciousness that could drive genuine democratic transformation. We note, however, that there is a ‘thin line between a burgeoning crisis [and] an emancipatory moment’.¹⁶ The political opposition and civil society should assume their responsibility with a political discourse that goes beyond the ‘third term’ rhetoric and that is based upon more than the mere antithesis of the CNDD-FDD and the President Nkurunziza.

Culture of impunity

IW profoundly regrets the decision of the authorities to resort to violence and to the deployment of members of the *Imbonerakure* as a veritable militia to suppress legitimate political dissent among unarmed protestors.¹⁷ All loss of life since the protests began can not be excused.

The ongoing violence is symptomatic of the culture of impunity that envelops Burundi. The banalisation of state structures by certain persons with power has ensured that many among the political elite continue to profit from impunity for crimes perpetrated during the war and the crimes in which they are implicated since coming to power. At the same time these persons are able to augment their power in order to continue to profit from impunity. The institutionalisation of structural violence and the violent suppression of threats to this *status quo* is the result, shown by the disregard for the rights of Burundians and the violence perpetrated against protestors of the last two weeks.

¹⁴ Reuters, Man burned alive in Burundi protest against presidential bid, 7 May 2015. Available at: <http://uk.reuters.com/article/2015/05/07/uk-burundi-politics-idUKKBNONS0ND20150507>.

¹⁵ Without claiming to be anthropological experts, we note that even at times of relative ‘peace’ rumours are a defining characteristic of Burundian culture, especially in Bujumbura. Note the panic that was spread in the first few days of the protests about the alleged presence of members of FDLR in Bujumbura.

¹⁶ Tomas van Acker, The thin line between a burgeoning crisis or an emancipatory moment..., 29 April 2015. Available at: <https://burundities.wordpress.com/2015/04/29/the-thin-line-between-an-emancipatory-moment-or-a-burgeoning-crisis/>.

¹⁷ It should be recalled that the UN High Commissioner for Human Rights branded the *Imbonerakure* as a ‘militia’ committing human rights violations with impunity at the conclusion of his recent visit to Burundi.

In this absence of a functioning rule of law and unable to turn to the police for protection, protestors have started to take justice into their own hands. The recourse to acts of violence and mob justice is in part attributable to anger, fear and resentment among protestors; however IW notes that it is also an indication of years of instrumentalisation and the corruption of justice by the powerful. It is this institutionalised violence that has compelled Burundians to the streets.

IW is alarmed by the emergence of the resort to mob justice by the protestors and condemns public lynching. We welcome the firm stand taken by the political opposition and civil society to denounce such revenge attacks. At the same time we reiterate our calls for the appropriate authorities to ensure that the police fulfil its duty to protect the public. By contrast the apparent neutrality demonstrated to date by the army is a notable factor in the current political crisis. This could prove to be a significant component used in any possible plan for disarming the *Imbonerakure*.

Elections in Burundi & Rwanda

It is with great concern that we are witnessing how the events of the last two weeks threaten Burundi's fragile stability. This includes the country's ability to rid itself of the culture of impunity that prevents genuine democratisation and transformation from violence. As the United States notes:

Violent suppression of dissent and intimidation of citizens who have a right to protest peacefully is unacceptable in a nation that wishes to strengthen its democratic transition from a post conflict society. Burundians have worked hard to achieve peace, prosperity and freedom of expression since the signing of the Arusha Agreement, and their efforts must not be in vain.

IW therefore welcomes the statements by several bilateral donors, regional bodies and UN agencies expressing concern at the crisis. In particular we applaud the position taken by the EU Election Observation Mission indicating that the current situation does not meet the minimum conditions for a credible and democratic electoral process,¹⁸ as well as the aforementioned position of the AU Commission. Belgium has quickly followed by announcing the suspension of its support to the police and the withholding of the second half of its financing for the elections.¹⁹ The EU has also announced the withholding of funds for the elections.²⁰ In order to demonstrate a strong position indicating that the government must put an end to the violence and to the crackdown on political dissent, the Netherlands should follow suit.

The position of states in the region is more unclear despite the apparent critique of various presidents having been quoted by different sources. Rwanda's position is perhaps crucial.

Since before the current crisis began, Rwanda had already been receiving refugees from Burundi, with current figures putting the total at around 25,000 people. Rwanda is thus already mixed up in the current crisis. Responding to the situation, the Rwandan Minister of Foreign Affairs delivered an ambiguous statement that raises the spectre of a possible Rwandan intervention in Burundi by invoking the rhetoric of the responsibility to protect civilians,²¹ whilst President Kagame has indirectly criticised the Burundian President.²² With elections on the horizon in 2017, Rwanda is facing its own 'third term' issue as the Constitution currently prohibits Kagame from seeking another term in office. As the history of regional conflict in the Great Lakes demonstrates, Rwanda is also no stranger to intervention in neighbouring states and Burundi and Rwanda's histories are inextricably intertwined. Kigali is undoubtedly taking a keen interest in the developments in Burundi and depending on for how long the crisis continues, its position should be closely monitored.

¹⁸ Press Release, EU Election Observation Mission to Burundi Emphasises the Conditions Necessary for Holding Credible and Transparent Election, 8 May 2015. Available at: http://www.eueom.eu/files/dmfile/press-release-moeue-burundi-08052015_en.pdf. Speech by David Martin, Chief of the European Union Election Observation Mission in Burundi (EU EOM Burundi), 11 May 2015. Available at: <http://t.co/dOnFFi1pkd>.

¹⁹ Reuters, Belgium suspends aid to Burundi after pre-election unrest, 11 May 2015. Available at: <http://uk.reuters.com/article/2015/05/11/uk-burundi-politics-belgium-aid-idUKKBN0NW0G920150511>.

²⁰ The Guardian, EU suspends €2m aid to Burundi amid violent crackdown on political protests, 12 May 2015. Available at: http://www.theguardian.com/global-development/2015/may/12/eu-suspends-2m-aid-burundi-violent-crackdown-political-protests?CMP=tw_t_gu.

²¹ Press Release, Statement by the Ministry of Foreign Affairs of Rwanda: Rwanda expresses serious concern over Burundi deteriorating situation, 4 May 2015. Available at: http://www.minafet.gov.rw/index.php?id=886&tx_ttnews%5Btt_news%5D=1425&cHash=d19dbb857aaca607cf3cd4451bd7bb44.

²² The New Times, Kagame Speaks Out on Burundi Political Crisis, 9 May 2015. Available at: <http://www.newtimes.co.rw/section/article/2015-05-09/188624/>.

Making the bed while the house burns?

Finally, the engagement of high-level international political and diplomatic actors who have visited Burundi over the last weeks should also be recognised. Many of these visits, including the engagement of the UN Special Envoy, Said Djinnit, have called for mediation and dialogue to end the crisis.

Calls for 'dialogue' alone however appear somewhat empty in the current context. We are witnessing in full view how certain individuals consider themselves above the law in Burundi, using the façade of democracy for their own power and self-interest.²³ At the core of the protestors' grievances is their corresponding powerlessness. It is hard to imagine a greater disparity of power at any negotiating table.

Originating from Greek words *dia* ('through') and *logos* ('reason'), for dialogue to succeed both sides must be willing to negotiate an amicable settlement and make concessions. As yet, the authorities have shown little to suggest that they would be willing to genuinely attend to the grievances of Burundians, nor negotiate away any of their power. By comparison, the political opposition and civil society are equally unyielding in their opposition to the third term. Whilst we reiterate that the political opposition and civil society must develop a clear strategy to bring to the table, the current impasse suggests that dialogue may be nothing more than *making the bed while the house burns* if more long-lasting solutions are not found to the root causes of this crisis.

Recommendations

To the Burundian authorities

- Respect the rights of all Burundians to protest, immediately putting an end to the characterisation of the expression of legitimate political grievances as 'insurrection'.
- Immediately put an end to the use of ethnic discourse when describing the protests, publicly denouncing those members of the government or pro-government media who promote such discourse. Issue a public statement to the effect that the current crisis is political, not ethnic, and those who state otherwise have an agenda to plunge Burundi back into inter-ethnic conflict.
- Allow all independent media to continue their work without threat or intimidation. This must begin with the re-opening of RPA and enabling independent radios to broadcast outside of Bujumbura.
- Ensure an immediate end to the use of live ammunition and grenades by the police. The Ministry of Security and the Ministry of the Interior has ultimate responsibility for the actions of the police, so must guarantee that the police exercise their powers in respect of the law, including that they refrain from violence against unarmed civilians.
- Denounce all acts of violence and intimidation by the *Imbonerakure*, and guarantee the immediate withdrawal of all of its armed elements from the main areas of protest.
- Launch independent and impartial investigations into all pre-election violence and killings, and remind the persons responsible for these crimes that they are subject to prosecution domestically and internationally.

To the political opposition in Burundi & civil society

- Urgently develop a political strategy for channelling the demands of the protestors.
- Continue to denounce acts of violence by the protestors, specifically any act or attempted act of lynching.
- Lobby bilateral donors, the AU, EU and UN organs to ensure proper dialogue on the key issues currently facing Burundi beyond the 'third term' issue, using the political strategy as the principal tool.

²³ The arrest of the opposition politician, Audifax Ndaditoye, is a plain demonstration of the untouchable mentality that these individuals now nurture. Outspokenly against the President's nomination, Ndaditoye was arrested in front of foreign ministers from the East African Community who has just finished a meeting to seek a resolution of the crisis, as well as in front of the Dutch Ambassador, Jolke Oppewal. The Washington Post, Burundian opposition leader arrested as protests continue, 6th May 2015. Available at: http://www.washingtonpost.com/world/africa/east-africa-community-tries-to-mend-burundi-turmoil/2015/05/06/e2fd75aa-f3ed-11e4-bca5-21b51bbdf93e_story.html.

To neighbouring states, bilateral donors, the EAC, the AU, the EU and UN organs

- Condemn the ongoing violence and attacks on basic freedoms in the strongest possible terms, using political leverage to ensure that the authorities immediately put an end to the violence.
 - Hold the government of Burundi to account for its commitments to ensure a peaceful, non-violent electoral process, including the Roadmap, the Code of Conduct, and the Charter of Non-Violence for the 2015 elections; its obligations under the 2005 Constitution, the Arusha Peace Agreement and Reconciliation Agreement (2000), various regional instruments such as the ICGLR Protocol on Democracy and Good Governance; and its responsibilities under international law.
 - As part of the ongoing mediation efforts, consider tabling proposals for supporting the army in implementing a plan for the immediate disarming of members of the *Imbonerakure*.
 - To the governments of the Netherlands and Belgium in particular: issue a joint statement denouncing any disproportionate use of force by the police, calling upon the Burundian authorities to disarm the *Imbonerakure*.
 - To bilateral donors and the government of the Netherlands in particular: follow the lead of Belgium by suspending support to the Burundian police and freezing assistance to the elections until the violence is ended and the minimum conditions for democratic elections cited by the EU Election Observation Mission are in place.
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